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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER

RYMAN, DANIEL J

ART UNIT	PAPER NUMBER
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2616

NOTIFICATION DATE	DELIVERY MODE
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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mike.furr@bakerbotts.com
ptomail1@bakerbotts.com

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Office Action Summary	Application No. 10/072,055	Applicant(s) BHALLA ET AL.	
	Examiner Daniel J. Ryman	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Response, filed 3/26/2007, with respect to the rejection(s) of claim(s) 1-41 under 35 U.S.C. § 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Dynarski et al. (USPN 6,628,671); Harper et al. (USPN 6,985,464); and Madour (US 2003/0053431).

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

3. Claims 5, 20, 30, and 36 each recite the steps of "determining that the registration request comprises the previous access network identifier; [and] identifying the previous packet controller function from the previous access network identifier." Claims 1, 16, 26, and 33, which claims 5, 20, 30, and 36 depend upon, respectively, recite: "determining, at the packet data serving node, whether the registration request comprises a previous access network identifier identifying a previous packet controller function." The specification discloses a single step of determining whether the registration request comprises a previous access network identifier identifying a previous packet controller function rather than two separate steps. Specification: Fig. 3, step. 130 and p. 19, lines 23-29. Similarly, claims 5, 20, 30, and 36 each recite the step of "determining whether the previous packet controller function is serviced by the packet data serving node". Claims 1, 16, 26, and 33, which claims 5, 20, 30, and 36 depend upon, respectively, recite: "determining, at

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the packet data serving node, whether the mobile node communicated with a previous packet controller function serviced by the packet data serving node.” Again, the specification discloses that both “deciding” steps refer to a single step rather than two individual steps. Specification: Fig. 3, step 132 and page 19, line 29-page 20, line 2. Further, the Specification fails to disclose the following two separate steps: “deciding, at the packet data service node, whether to negotiate a point-to-point session for the mobile node in response to the determinations,” as taught in claims 1, 16, 26, and 33, and “negotiating the point-to-point session if the previous packet controller function is not serviced by the packet data serving node; and updating the point-to-point session if the previous packet controller function is serviced by the packet data serving node,” as taught in claims 5, 20, 30, and 36. See Specification: Fig. 3, steps 150 and 134. Cf. claim 3.

4. Claims 8, 15, 23, 32, and 39 each recite both the step of “determining, at the packet data service node, whether the mobile node is serviced by a mobile Internet Protocol” and the separate step of “determining that the mobile node is serviced by a simple Internet Protocol”. The specification discloses a single step of determining whether the mobile is serviced by mobile or simple IP. Specification: Fig. 3, step. 142 and p. 22, lines 7-9. Similarly, the Specification fails to disclose the following two separate steps: “determining at the packet data serving node, whether the mobile node communicated with a previous packet controller function serviced by the packet data serving node” and “determining whether a first Internet Protocol address associated with the mobile node is substantially similar to a second Internet Protocol address associated with the mobile node.” Rather, it appears in the Specification that these are a single step, where the PDSN makes the comparison of the addresses to determine if the mobile node communicated with a previous packet controller function by the PDSN when the mobile node is

served by a simple Internet Protocol. See Specification: Fig. 3, step 148. Further, the Specification fails to disclose the following two separate steps: “deciding, at the packet data service node, whether to negotiate a point-to-point session for the mobile node in response to the determinations” and “negotiating the point-to-point session, if the first Internet Protocol address is not substantially similar to the second Internet Protocol address; and updating the point-to-point session, if the first Internet Protocol address is substantially similar to the second Internet Protocol address.” Rather, it appears in the Specification that the “deciding” step refers to both the “negotiating” and “updating” steps. See Specification: Fig. 3, steps 150 and 134. Cf. claim 3.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5, 8, 15, 23, 30, 32, 36, and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 5, 20, 30, and 36 each recite the steps of “determining that the registration request comprises the previous access network identifier; [and] identifying the previous packet controller function from the previous access network identifier.” Claims 1, 16, 26, and 33, which claims 5, 20, 30, and 36 depend upon, respectively, recite: “determining, at the packet data serving node, whether the registration request comprises a previous access network identifier identifying a previous packet controller function.” It is unclear how a single method can include the steps of “determining whether the registration request comprises a previous access network identifier identifying a previous packet controller function”; “determining that the registration request

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comprises the previous access network identifier; [and] identifying the previous packet controller function from the previous access network identifier.” Simply, it appears that the two steps listed in claims 5, 20, 30, and 36 are sub-steps of the step listed in claims 1, 16, 26, and 33, rather than separate, independent steps.

Similarly, claims 5, 20, 30, and 36 each recite the step of “determining whether the previous packet controller function is serviced by the packet data serving node”. Claims 1, 16, 26, and 33, which claims 5, 20, 30, and 36 depend upon, respectively, recite: “determining, at the packet data serving node, whether the mobile node communicated with a previous packet controller function serviced by the packet data serving node.” It appears that these two steps are actually the same step, rather than two separate, independent steps.

8. Claims 8, 15, 23, 32, and 39 each recite both the step of “determining, at the packet data service node, whether the mobile node is serviced by a mobile Internet Protocol” and the separate step of “determining that the mobile node is serviced by a simple Internet Protocol”. It appears that these two steps are actually the same step, rather than two separate, independent steps.

Similarly, claims 8, 15, 23, 32, and 39 each recite the following two separate steps: “determining at the packet data serving node, whether the mobile node communicated with a previous packet controller function serviced by the packet data serving node” and “determining whether a first Internet Protocol address associated with the mobile node is substantially similar to a second Internet Protocol address associated with the mobile node.” It is unclear whether these two steps are separate, independent steps, or whether the latter step is a subset of the former step.

Further, claims 8, 15, 23, 32, and 39 each recite the following two separate steps: “determining, at the packet data serving node, whether the mobile node is serviced by a mobile Internet Protocol” and “determining that the mobile node is serviced by a simple Internet Protocol.” In cdma2000 systems, a mobile node can only be serviced by either mobile IP or simple IP, such that determining whether the mobile is serviced by mobile IP necessarily also determines if the mobile is serviced by simple IP. However, the claims never specifically require the claims to be utilized in a cdma2000 system. Therefore, it is unclear whether these aforementioned steps are two separate steps, or a merely the same step.

9. The term "substantially similar" in claims 8, 15, 23, 32, and 39 is a relative term which renders the claim indefinite. The term "substantially similar" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 1-15, 26-39, and 41 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

12. To comply with the subject matter eligibility requirement of 35 U.S.C. § 101, a claim must pass the following test: (1) Does the claimed invention fall within one of the statutory classes? If not, then the claim is non-statutory. (2) If it does, does the claimed invention fall/cover/include a judicial exception? If not, the claim is statutory. If so, the claim is only

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statutory if there is a practical application (a) by physical transformation or (b) that produces a useful and tangible result.

13. In this case, claims 1-7 (directed to a method); claim 8 (directed to a method); claims 9-14 (directed to a method); claim 15 (directed to a method); claims 26-31 (directed to an apparatus); claim 32 (directed to an apparatus); and claim 41 (directed to a method) meet Question One since they fall within either the “process” or “machine” statutory classes of 35 U.S.C. § 101. However, these claims fail Question Two since they fall within a judicial exception, i.e. the claims are an attempt to seek patent protection of a computer program in the abstract. This is evidenced by claims 33-39 which demonstrate that the method and programs implemented by the devices are implemented using computer programs. Since the claims are merely trying to claim a “computer code” in the abstract, the claims fall within the “abstract idea” judicial exception.

14. Once the answer to Question Two is “yes,” i.e. the claimed invention falls under a judicial exception, the claimed invention is only statutory if it produces either a practical application by physical transformation or a practical application that produces a useful and tangible result. In this case, there is no practical application by physical transformation since the software does not manipulate any physical structure and since the structure of the machines in each of these claims does not change. In addition, there is no practical application that produces a useful and tangible result since, when implemented in software, the claims never require that the software be executed by a computer. Therefore, the claims are non-statutory.

15. In order to make these claims statutory, Applicant could amend the claims to turn the method steps into structural limitations, e.g. “means for receiving” or “means for determining”.

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Applicant could also amend the claims to turn the claims into a purely “software” claim by amending the claims to read, for example, “A computer-readable medium encoded with a data structure [or software] for receiving a registration request.”

16. Claims 33 and 39 recite: “Logic for optimization of point-to-point sessions, the logic embodied in a computer-readable medium and operable to [perform certain steps].” However, current USPTO practice requires that software be claimed using the following form: “Computer-readable medium encoded with a data structure for . . .” Any other language fails to define structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized. As such, any other language for claiming a computer program is non-statutory.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1-7, 9-14, 16-22, 24-31, 33-38, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dynarski et al. (USPN 6,628,671) in view of Harper et al. (USPN 6,985,464) in further view of Madour (US 2003/0053431).

19. Regarding claims 1, 9, 16, 26, 33, and 40, Dynarski discloses a method of optimizing point-to-point sessions, comprising: receiving a registration request from a mobile node, the mobile node communicating with a current interface serviced by a network access server (col. 3, lines 22-27, where the network access server receives a new call set-up message, i.e. a registration request, from the

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communications device, i.e. the mobile node, where the mobile node communicates with a second port, i.e. interface, serviced by the network access server); determining, at the network access server, whether the registration request identifies a previous access network identifier identifying a previous interface (col. 3, lines 60-63, where the registration request is used to identify first port identifier, i.e. a previous access network identifier, identifying a previous interface, see also col. 3, lines 48-52); determining, at the network access server, whether the mobile node communicated with a previous interface serviced by the network access server (col. 3, lines 60-63, where the network access server determines if the mobile node communicated with one of its ports previously); and deciding, at the network access server, whether to negotiate a point-to-point session for the mobile node in response to the determinations (col. 3, lines 33-41, where if the mobile node previously communicated with the network access server then the PPP session is not renegotiated, and col. 4, lines 29-31, where if the mobile node did not previously communicate with the network access server then the PPP session is renegotiated), wherein the network access server comprises a memory operable to store a table, the table comprising an entry corresponding to a mobile node (col. 3, lines 63-col. 4, line 1, where the network access server stores a table containing an entry corresponding to a mobile node), the entry comprising: a mobile station identifier field operable to store a mobile station identifier and a previous access network identifier field operable to store a previous access network identifier (col. 3, line 63-col. 4, line 1, where the table maps ISMI/ESN numbers, i.e. a mobile station identifier, to a particular port, i.e. a previous access network identifier field operable to store a previous access network identifier, see also col. 3, lines 22-32, where the ports correspond to respective base stations, i.e. "access network").

Dynarski does not expressly disclose that the network access server is a packet data serving node or that the interface is a packet controller function. However, Dynarski does disclose

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that the network access server “provides access to the packet switched network” for the mobile (col. 3, lines 13-15). Dynarski also teaches that the interface is an interface between a base station and the network access server (col. 3, lines 22-32). Harper teaches, in a wireless communication system involving PPP sessions, that, in the CDMA2000 standard, the mobile accesses the packet switched network through a PDSN (col. 3, lines 22-25). Harper further teaches that, in the CDMA 2000 standard, the “PDSN interfaces to the MS through a Packet Control Function (PCF)” (col. 3, lines 25-27). Harper further discloses that it is desirable in CDMA2000 to keep a single PPP session when a mobile roams outside an area covered by a BSC or PCF (col. 5, lines 23-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a packet data serving node as the network access server and to use a packet controller function as the interface to increase the industrial applicability of Dynarski’s system by implementing Dynarski’s system in a CDMA2000 standard network in a way that provides benefits in the CDMA2000 system by maintaining a single PPP session as the mobile roams.

Dynarski does not expressly disclose determining, at the packet data serving node, whether the mobile node is serviced by a mobile Internet Protocol. Harper teaches, in a wireless communication system involving PPP sessions, that the PDSN offers two modes of operation: Simple IP and Mobile IP (col. 3, lines 37-38). Harper further discloses that in Simple IP the PDSN must assign each new mobile node an IP address (col. 3, lines 37-44), whereas in Mobile IP the PDSN does not have to assign each new mobile node an IP address (col. 3, line 56-col. 4, line 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine, at the packet data serving node, whether the mobile node is serviced by a mobile Internet Protocol to permit the PDSN to determine how to interact with the mobile node.

Dynarski in view of Harper does not expressly disclose determining, at the packet data serving node, whether the registration request comprises a previous access network

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identifier identifying a previous packet controller function. However, Dynarski in view of Harper does disclose determining, at the packet data serving node, whether the mobile node communicated with a previous packet controller function (Dynarski: col. 3, lines 60-63, where the network access server determines if the mobile node communicated with one of its ports previously, and Harper: col. 3, lines 22-27, where the network access server is a PDSN and the port is a PCF, as outlined above). Madour teaches, in a CDMA2000 system, that when a mobile station enters into a new radio access network, the serving PDSN will receive the RAN's packet zone identification (PZID), access network ID (system ID (SID)) and network ID (NID) (§ [0008]). Madour further teaches that the RAN corresponds to a BS, where the BS is connected to a PCF (§ [0005]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine, at the packet data serving node, whether the registration request comprises a previous access network identifier identifying a previous packet controller function to permit the PDSN to determine whether it contains a PPP connection for the mobile node in a manner that utilizes the signaling of the CDMA2000 network.

20. Regarding claims 2, 10, 17 and 27, Dynarski in view of Harper in further view of Madour discloses that the registration request comprises a request for service at the packet data serving node (Dynarski: col. 3, lines 22-27, where the new call set-up message, i.e. a registration request, requests service from the network access server, i.e. PDSN).

21. Regarding claims 3, 5, 11, 18, 20, 28, 30, 34, 36, and 41, Dynarski in view of Harper in further view of Madour discloses that deciding whether to negotiate the point-to-point session for the mobile node comprises: negotiating the point-to-point session if the mobile node did not communicate with a previous packet controller function serviced by the packet data serving node (Dynarski: col. 4, lines 29-31, where if the mobile node did not previously communicate with the

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network access server then the PPP session is negotiated); and updating the point-to-point session if the mobile node communicated with a previous packet controller function serviced by the packet data serving node (Dynarski: col. 3, lines 33-41, where if the mobile node previously communicated with the network access server then the PPP session is updated).

22. Regarding claims 4, 12, 19, 29, and 35, Dynarski in view of Harper in further view of Madour discloses that deciding whether to negotiate the point-to-point session for the mobile node comprises: determining whether there is a session context for the mobile node (Dynarski: col. 3, lines 33-41, where an network access server updates a PPP state); negotiating the point-to-point session if there is no session context (Dynarski: col. 4, lines 29-31, where if the mobile node did not previously communicate with the network access server then the PPP session is negotiated); and updating the point-to-point session if there is session context (Dynarski: col. 3, lines 33-41, where if the mobile node previously communicated with the network access server then the PPP session is updated).

23. Regarding claims 6, 13, 21, 31, and 37, Dynarski in view of Harper in further view of Madour discloses generating a table comprising an entry associated with the mobile node (Dynarski: col. 3, lines 63-col. 4, line 1, where the network access server stores a table containing an entry corresponding to a mobile node), the entry comprising a mobile node identifier and a previous access network identifier (Dynarski: col. 3, line 63-col. 4, line 1, where the table maps ISMI/ESN numbers, i.e. a mobile station identifier, to a particular port, i.e. a previous access network identifier field operable to store a previous access network identifier, see also col. 3, lines 22-32, where the ports correspond to respective base stations, i.e. "access network").

Dynarski in view of Harper in further view of Madour suggests that the table includes a current access network identifier. Dynarski in view of Harper in further view of Madour discloses that the PPP state is updated to reflect the move by the mobile unit (Dynarski: col. 3, lines 33-41). Dynarski in view of Harper in further view of Madour further discloses receiving the current access network identifier with the registration request (Madour: ¶ [0008]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the table include a current access network identifier to aid the system in updating the PPP state by having the current access network identifier and the previous access network identifier mapped to each other along with the mobile identification.

24. Regarding claims 7, 14, 22, and 38, Dynarski in view of Harper in further view of Madour discloses updating a tunnel connection operable to communicate a plurality of data packets between the current packet controller function and the packet data serving node by updating the entry associated with the mobile node (Harper: col. 4, lines 33-35, where the connection between the PCF and the PDSN, i.e. the “GRE tunnel,” would be updated to reflect the changes to the PPP connection).

25. Regarding claim 24, Dynarski in view of Harper in further view of Madour discloses that at least one of the packet controller functions is operable to: communicate with the at least one packet data serving node (Harper: col. 3, lines 25-27, where the PDSN interfaces to the BS through the PCF); and store an access network identifier identifying the at least one packet controller function (Madour: ¶ [0005], where the PCF corresponds to a BS, which in turn corresponds to a RAN, and ¶ [0008], where the RAN is identified by an access network identifier, such that the PCF is

identified by an access network identifier, where it is suggested that the PCF store the access network identifier to enable communication between the PCF and the PDSN).

26. Regarding claim 25, Dynarski in view of Harper in further view of Madour discloses that the at least one packet data serving node is further operable to establish a tunnel connection to communicate between the at least one packet controller function and the at least one packet data serving node (Harper: col. 4, lines 33-35, where the connection between the PCF and the PDSN is known as "a GRE tunnel").

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Daniel J. Ryman

Examiner

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Daniel Ryman